

REMARKS

Claims 11-24 are again rejected under 35 U.S.C § 103 as obvious over Anderson (U.S. 6,394,952) in view of Binkert (2003/0197734) and/or Murphy (2003/0204248). Notwithstanding the traversal presented in the prior response, instant Office Action still does not show how, even with a piecemeal reconstruction, the prior art combination results in the claimed subject matter. Nor is there shown to be a motivation for combining the references. Reconsideration of the rejections is respectfully requested in view of the following remarks.

Independent claim 11 requires, among other features,

a control unit which controls the taking of the high energy image, the control unit supplied with an identification code of the adjuvant via an input device and adapted to set operating parameters of the image unit according to the identification code.

The rejection cites Anderson for using a bar code to read identifying information from an immunoassay device and for disclosure of an assay reader 600 having a data entry keypad. As best understood the rejection equates a data reader for an immune-assay device, having a data entry key pad, with a control unit for taking an image. The argument in support of the rejection states that the

“processing unit ... and the whole control unit as taught by Anderson can be used to[sic] in medical diagnostic or treatment system to control operations of an x-ray imaging unit which uses high energy images, through the data entry pad ...”

Applicants inquire of the Examiner, how can a processing and control unit programmed to read an immune-assay device be used to for controlling x-ray operations? The invention is not rendered obvious by finding a control unit in an unrelated application (reading immunoassay devices) and then merely locating a reference that describes CT or MR imaging (e.g., Binkert or Murphy). This is not the law on obviousness and the Examiner has not presented a prima facie case of obviousness. First, there is no motivation in the art to combine the references; and

second, the resulting combination would be no more than a failed attempt to control a high energy x-ray device with an immunoassay reader.

Further, there is no relation between the Anderson disclosure and applicant's teaching of setting set operating parameters of the image unit according to the identification code.

In a response to applicant's argument the Examiner (see page 5 of the final office action) proposes that Anderson intends that the disclosed test strip refers to any means on which data is generated. even if this is so, it does not relate to controlling of a device which takes images. as indicated in the cited passage (col. 18, lines 17-29) the reference refers to means on which data is generated, recorded or displayed. The Examiner incorrectly extends the Anderson reference to setting parameters for the acquisition of an image containing a medical adjuvant.

For similar reasons, claim 20 is non-obvious because it requires, among other features, "controlling the taking of the high energy image by an imaging unit via a control unit ... [and] setting operating parameters of the imaging unit via the control unit according to the identification code ..."

Conclusion

The Anderson reference may disclose subject matter relating to symbology and bar codes, but this is not in the context of controlling the taking of a medical image. Simply contending that Binkert concerns taking an image of a stent graft, and that Murphy concerns imaging of a stent does not compensate for the deficiencies of Anderson. Specifically, there is no disclosure in the Anderson reference of a **control unit** in the context of setting operating operating parameters of an image unit according to an identification code, let alone a recognition of an advantage of doing so. Thus it is not seen how one can construct a prima facie case of obviousness using this combination. There is no suggestion in the prior art for setting imaging parameters for a medical adjuvant when taking images. For all of these reasons, the rejections should be withdrawn and the application should be allowed.

(Please proceed to the next page.)

For the foregoing reasons, Applicant respectfully requests that the Examiner withdraw the rejections and timely pass the application to allowance. All correspondence should continue to be directed to our below-listed address. Please grant any extensions of time required to enter this paper. The Commissioner is hereby authorized to charge any appropriate fees due in connection with this paper or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

Dated: May 14, 2010

By: Janet D. Hood
Janet D. Hood
Registration No. 61,142
(407) 736-4234

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, New Jersey 08830